

FILE NO. 011575

ORDINANCE NO. 57-02

1 [Rent Ordinance amendments providing additional protection to tenants subject to Ellis Act
2 and other eviction notices, including recordation of owner-move-in notices, future use
3 restrictions on vacated units, waiver protections, prohibiting settlement bars to cooperation
4 with governmental entities, and notice of evictions to buyers; and conformation to state law re
5 misdemeanor violations.]

6 **Ordinance amending the Rent Ordinance (Administrative Code Chapter 37, Residential**
7 **Rent Stabilization and Arbitration Ordinance) by amending Sections 37.9, 37.9B and**
8 **37.10A to provide additional protections to tenants, and to conform to state law**
9 **regarding misdemeanor violations, as follows: (1) Require the Rent Board to record**
10 **owner move-in eviction notices with the County Recorder; (2) Require any eviction**
11 **notices to be in writing and filed with the Rent Board; (3) Subject vacated units to the**
12 **future use restrictions stated in the Rent Ordinance, regardless of any agreement made**
13 **between the landlord and the vacating tenant; (4) Require a tenant to be represented**
14 **by independent counsel in a judicially court-supervised settlement agreement, in order**
15 **to waive any tenant rights under the Rent Ordinance; (5) Prohibit settlement**
16 **agreement clauses that bar an evicted tenant from cooperation with a governmental**
17 **investigation or proceeding; (6) Require the seller of a property to give written notice**
18 **to the buyer disclosing the reason legal ground(s) for the ~~most recent~~ termination of**
19 **the tenancy for every each residential unit to be delivered vacant at the close of**
20 **escrow; and (7) Conform misdemeanor provisions to state law (\$1,000 fine plus**
21 **possible imprisonment in County Jail for up to six months).**

21 Note: Additions are *single-underline italics Times New Roman font*;
22 deletions are ~~strikethrough italics Times New Roman font~~.
23 Board amendment additions are double underlined Arial font;
24 Board amendment deletions are ~~strikethrough Arial font~~.

24 Be it ordained by the People of the City and County of San Francisco:

1 Section 1. The San Francisco Administrative Code is hereby amended by amending
2 Section 37.9, to read as follows:

3 SEC. 37.9. EVICTIONS.

4 Notwithstanding Section 37.3, this Section shall apply as of August 24, 1980, to all
5 landlords and tenants of rental units as defined in Section 37.2(r).

6 (a) A landlord shall not endeavor to recover possession of a rental unit unless:

7 (1) The tenant:

8 (A) Has failed to pay the rent to which the landlord is lawfully entitled under the oral
9 or written agreement between the tenant and landlord:

10 (i) Except that a tenant's nonpayment of a charge prohibited by Section 919.1 of
11 the Police Code shall not constitute a failure to pay rent; and

12 (ii) Except that, commencing August 10, 2001, to and including February 10, 2003,
13 a landlord shall not endeavor to recover or recover possession of a rental unit for failure of a
14 tenant to pay that portion of rent attributable to a capital improvement passthrough certified
15 pursuant to a decision issued after April 10, 2000, where the capital improvement passthrough
16 petition was filed prior to August 10, 2001, and a landlord shall not impose any late fee(s)
17 upon the tenant for such non-payment of capital improvement costs; or

18 (B) Habitually pays the rent late; or

19 (C) Gives checks which are frequently returned because there are insufficient funds
20 in the checking account; or

21 (2) The tenant has violated a lawful obligation or covenant of tenancy other than the
22 obligation to surrender possession upon proper notice or other than an obligation to pay a
23 charge prohibited by Police Code Section 919.1, and failure to cure such violation after having
24 received written notice thereof from the landlord, provided further that notwithstanding any
25 lease provision to the contrary, a landlord shall not endeavor to recover possession of a rental

1 unit as a result of subletting of the rental unit by the tenant if the landlord has unreasonably
2 withheld the right to sublet following a written request by the tenant, so long as the tenant
3 continues to reside in the rental unit and the sublet constitutes a one-for-one replacement of
4 the departing tenant(s). If the landlord fails to respond to the tenant in writing within fourteen
5 (14) days of receipt of the tenant's written request, the tenant's request shall be deemed
6 approved by the landlord; or

7 (3) The tenant is committing or permitting to exist a nuisance in, or is causing
8 substantial damage to, the rental unit, or is creating a substantial interference with the
9 comfort, safety or enjoyment of the landlord or tenants in the building, and the nature of such
10 nuisance, damage or interference is specifically stated by the landlord in writing as required
11 by Section 37.9(c); or

12 (4) The tenant is using or permitting a rental unit to be used for any illegal purpose;
13 or

14 (5) The tenant, who had an oral or written agreement with the landlord which has
15 terminated, has refused after written request or demand by the landlord to execute a written
16 extension or renewal thereof for a further term of like duration and under such terms which are
17 materially the same as in the previous agreement; provided, that such terms do not conflict
18 with any of the provisions of this Chapter; or

19 (6) The tenant has, after written notice to cease, refused the landlord access to the
20 rental unit as required by State or local law; or

21 (7) The tenant holding at the end of the term of the oral or written agreement is a
22 subtenant not approved by the landlord; or

23 (8) The landlord seeks to recover possession in good faith, without ulterior reasons
24 and with honest intent:
25

1 (i) For the landlord's use or occupancy as his or her principal residence for a period
2 of at least 36 continuous months;

3 (ii) For the use or occupancy of the landlord's grandparents, grandchildren, parents,
4 children, brother or sister, or the landlord's spouse, or the spouses of such relations, as their
5 principal place of residency for a period of at least 36 months, in the same building in which
6 the landlord resides as his or her principal place of residency, or in a building in which the
7 landlord is simultaneously seeking possession of a rental unit under Section 37.9(a)(8)(i). For
8 purposes of this Section 37.9(a)(8)(ii), the term spouse shall include domestic partners as
9 defined in San Francisco Administrative Code Sections 62.1 through 62.8.

10 (iii) For purposes of this Section 37.9(a)(8) only, as to landlords who become
11 owners of record of the rental unit on or before February 21, 1991, the term "landlord" shall be
12 defined as an owner of record of at least 10 percent interest in the property or, for Section
13 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco
14 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at
15 least 10 percent. For purposes of this Section 37.9(a)(8) only, as to landlords who become
16 owners of record of the rental unit after February 21, 1991, the term "landlord" shall be defined
17 as an owner of record of at least 25 percent interest in the property or, for Section 37.9(a)(8)(i)
18 only, two individuals registered as domestic partners as defined in San Francisco
19 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at
20 least 25 percent.

21 (iv) A landlord may not recover possession under this Section 37.9(a)(8) if a
22 comparable unit owned by the landlord is already vacant and is available, or if such a unit
23 becomes vacant and available before the recovery of possession of the unit. If a comparable
24 unit does become vacant and available before the recovery of possession, the landlord shall
25 rescind the notice to vacate and dismiss any action filed to recover possession of the

1 premises. Provided further, if a noncomparable unit becomes available before the recovery of
2 possession, the landlord shall offer that unit to the tenant at a rent based on the rent that the
3 tenant is paying, with upward or downward adjustments allowed based upon the condition,
4 size, and other amenities of the replacement unit. Disputes concerning the initial rent for the
5 replacement unit shall be determined by the Rent Board. It shall be evidence of a lack of good
6 faith if a landlord times the service of the notice, or the filing of an action to recover
7 possession, so as to avoid moving into a comparable unit, or to avoid offering a tenant a
8 replacement unit.

9 (v) It shall be rebuttably presumed that the landlord has not acted in good faith if the
10 landlord or relative for whom the tenant was evicted does not move into the rental unit within
11 three months and occupy said unit as that person's principal residence for a minimum of 36
12 continuous months.

13 (vi) Once a landlord has successfully recovered possession of a rental unit pursuant
14 to Section 37.9(a)(8)(i), then no other current or future landlords may recover possession of
15 any other rental unit in the building under Section 37.9(a)(8)(i). It is the intention of this
16 Section that only one specific unit per building may be used for such occupancy under Section
17 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies under
18 Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a petition with
19 the Rent Board, or at the landlord's option, commence eviction proceedings, claiming that
20 disability or other similar hardship prevents him or her from occupying a unit which was
21 previously occupied by the landlord.

22 (vii) If any provision or clause of this amendment to Section 37.9(a)(8) or the
23 application thereof to any person or circumstance is held to be unconstitutional or to be
24 otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other
25 chapter provisions, and clauses of this Chapter are held to be severable; or

1 (9) The landlord seeks to recover possession in good faith in order to sell the unit in
2 accordance with a condominium conversion approved under the San Francisco subdivision
3 ordinance and does so without ulterior reasons and with honest intent; or

4 (10) The landlord seeks to recover possession in good faith in order to demolish or to
5 otherwise permanently remove the rental unit from housing use and has obtained all the
6 necessary permits on or before the date upon which notice to vacate is given, and does so
7 without ulterior reasons and with honest intent; provided that a landlord who seeks to
8 demolish an unreinforced masonry building pursuant to Building Code Chapters 14 and 15
9 must provide the tenant with the relocation assistance specified in Section 37.9A(f) below
10 prior to the tenant's vacating the premises; or

11 (11) The landlord seeks in good faith to remove temporarily the unit from housing use
12 in order to be able to carry out capital improvements or rehabilitation work and has obtained
13 all the necessary permits on or before the date upon which notice to vacate is given, and does
14 so without ulterior reasons and with honest intent. Any tenant who vacates the unit under such
15 circumstances shall have the right to reoccupy the unit at the prior rent adjusted in
16 accordance with the provisions of this Chapter. The tenant will vacate the unit only for the
17 minimum time required to do the work. On or before the date upon which notice to vacate is
18 given, the landlord shall advise the tenant in writing that the rehabilitation or capital
19 improvement plans are on file with the Central Permit Bureau of the Department of Building
20 Inspection and that arrangements for reviewing such plans can be made with the Central
21 Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of
22 any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as
23 provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be
24 required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months;
25 provided, however, that such time period may be extended by the Board or its Administrative

1 Law Judges upon application by the landlord. The Board shall adopt rules and regulations to
2 implement the application procedure. Any landlord who seeks to recover possession under
3 this Section 37.9(a)(11) shall pay the tenant actual costs up to \$1,000 for moving and
4 relocation expenses not less than 10 days prior to recovery of possession; or

5 (12) The landlord seeks to recover possession in good faith in order to carry out
6 substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the necessary
7 permits on or before the date upon which notice to vacate is given, and does so without
8 ulterior reasons and with honest intent. Notwithstanding the above, no landlord shall endeavor
9 to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this
10 Chapter except as provided in Section 32.69 of the San Francisco Administrative Code; or

11 (13) The landlord wishes to withdraw from rent or lease all rental units within any
12 detached physical structure and, in addition, in the case of any detached physical structure
13 containing three or fewer rental units, any other rental units on the same lot, and complies in
14 full with Section 37.9A with respect to each such unit; provided, however, that a unit classified
15 as a residential unit under Chapter 41 of this Code which is vacated under this Section
16 37.9(a)(13) may not be put to any use other than that of a residential hotel unit without
17 compliance with the provisions of Section 41.9 of this Code; or

18 (14) The landlord seeks in good faith to temporarily recover possession of the unit for
19 less than 30 days solely for the purpose of effecting lead remediation or abatement work, as
20 required by San Francisco Health Code Article 26. The relocation rights and remedies,
21 established by San Francisco Administrative Code Chapter 72, including but not limited to, the
22 payment of financial relocation assistance, shall apply to evictions under this Section
23 37.9(a)(14).

24 (b) A landlord who resides in the same rental unit with his or her tenant may evict
25 said tenant without just cause as required under Section 37.9(a) above.

1 (c) A landlord shall not endeavor to recover possession of a rental unit unless at
2 least one of the grounds enumerated in Section 37.9(a) or (b) above is the landlord's
3 dominant motive for recovering possession and unless the landlord informs the tenant in
4 writing on or before the date upon which notice to vacate is given of the grounds under which
5 possession is sought and that advice regarding the notice to vacate is available from the
6 Residential Rent Stabilization and Arbitration Board, before endeavoring to recover
7 possession. A copy of all notices to vacate except three-day notices to vacate or pay rent and
8 a copy of any additional written documents informing the tenant of the grounds under which
9 possession is sought shall be filed with the Board within 10 days following service of the
10 notice to vacate. The District Attorney shall determine whether the units set forth on the list
11 compiled in accordance with Section 37.6(k) are still being occupied by the tenant who
12 succeeded the tenant upon whom the notice was served. In cases where the District Attorney
13 determines that Section 37.9(a)(8) has been violated, the District Attorney shall take whatever
14 action he deems appropriate under this Chapter or under State law.

15 (d) No landlord may cause a tenant to quit involuntarily or threaten to bring any
16 action to recover possession, or decrease any services, or increase the rent, or take any other
17 action where the landlord's dominant motive is retaliation for the tenant's exercise of any
18 rights under the law. Such retaliation shall be a defense to any action to recover possession.
19 In an action to recover possession of a rental unit, proof of the exercise by the tenant of rights
20 under the law within six months prior to the alleged act of retaliation shall create a rebuttable
21 presumption that the landlord's act was retaliatory.

22 (e) It shall be unlawful for a landlord or any other person who wilfully assists the
23 landlord to endeavor to recover possession or to evict a tenant except as provided in Section
24 37.9(a) and (b). Any person endeavoring to recover possession of a rental unit from a tenant
25 or evicting a tenant in a manner not provided for in Section 37.9(a) or (b) without having a

1 substantial basis in fact for the eviction as provided for in Section 37.9(a) shall be guilty of a
2 misdemeanor and shall be subject, upon conviction, to the fines and penalties set forth in
3 Section 37.10A. Any waiver by a tenant of rights under this Chapter except as provided in
4 Section 37.10A(g), shall be void as contrary to public policy.

5 (f) Whenever a landlord wrongfully endeavors to recover possession or recovers
6 possession of a rental unit in violation of Sections 37.9 and/or 37.10A as enacted herein, the
7 tenant or Board may institute a civil proceeding for injunctive relief, money damages of not
8 less than three times actual damages, (including damages for mental or emotional distress),
9 and whatever other relief the court deems appropriate. In the case of an award of damages
10 for mental or emotional distress, said award shall only be trebled if the trier of fact finds that
11 the landlord acted in knowing violation of or in reckless disregard of Section 37.9 or 37.10A
12 herein. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant
13 to order of the court. The remedy available under this Section 37.9(f) shall be in addition to
14 any other existing remedies which may be available to the tenant or the Board.

15 (g) The provisions of this Section 37.9 shall apply to any rental unit as defined in
16 Sections 37.2(r)(4)(A) and 37.2(r)(4)(B), including where a notice to vacate/quit any such
17 rental unit has been served as of the effective date of this Ordinance No. 250-98 but where
18 any such rental unit has not yet been vacated or an unlawful detainer judgment has not been
19 issued as of the effective date of this Ordinance No. 250-98.

20 (h) With respect to rental units occupied by recipients of tenant-based rental
21 assistance, the notice requirements of this Section 37.9 shall be required in addition to any
22 notice required as part of the tenant-based rental assistance program, including but not limited
23 to the notice required under 24 CFR Section 982.310(e)(2)(ii).

24 (i) The following additional provisions shall apply to a landlord who seeks to
25 recover a rental unit by utilizing the grounds enumerated in Section 37.9(a)(8):

1 (1) A landlord may not recover possession of a unit from a tenant under Section
2 37.9(a)(8) if the landlord has or receives notice, any time before recovery of possession, that
3 any tenant in the rental unit:

4 (A) Is 60 years of age or older and has been residing in the unit for 10 years or
5 more; or

6 (B) Is disabled within the meaning of Section 37.9(i)(1)(B)(i) and has been residing
7 in the unit for 10 years or more, or is catastrophically ill within the meaning of Section
8 37.9(i)(1)(B)(ii) and has been residing in the unit for five years or more:

9 (i) A "disabled" tenant is defined for purposes of this Section 37.9(i)(1)(B) as a
10 person who is disabled or blind within the meaning of the federal Supplemental Security
11 Income/California State Supplemental Program (SSI/SSP), and who is determined by
12 SSI/SSP to qualify for that program or who satisfies such requirements through any other
13 method of determination as approved by the Rent Board;

14 (ii) A "catastrophically ill" tenant is defined for purposes of this Section 37.9(i)(1)(B)
15 as a person who is disabled as defined by Section 37.9(i)(1)(B)(i), and who is suffering from a
16 life threatening illness as certified by his or her primary care physician.

17 (2) The foregoing provisions of Sections 37.9(i)(1)(A) and (B) shall not apply where
18 there is only one rental unit owned by the landlord in the building, or where each of the rental
19 units owned by the landlord in the same building where the landlord resides (except the unit
20 actually occupied by the landlord) is occupied by a tenant otherwise protected from eviction by
21 Sections 37.9(i)(1)(A) or (B) and where the landlord's qualified relative who will move into the
22 unit pursuant to Section 37.9(a)(8) is 60 years of age or older.

23 (3) The provisions established by this Section 37.9(i) include, but are not limited to,
24 any rental unit where a notice to vacate/quit has been served as of the date this amendment
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1 takes effect but where the rental unit has not yet been vacated or an unlawful detainer
2 judgment has not been issued.

3 (4) Within 30 days of personal service by the landlord of a written request, or, at the
4 landlord's option, a notice of termination of tenancy under Section 37.9(a)(8), the tenant must
5 submit a statement, with supporting evidence, to the landlord if the tenant claims to be a
6 member of one of the classes protected by Section 37.9(i). The written request or notice shall
7 contain a warning that a tenant's failure to submit a statement within the 30 day period shall
8 be deemed an admission that the tenant is not protected by Section 37.9(i). The landlord shall
9 file a copy of the request or notice with the Rent Board within 10 days of service on the tenant.
10 A tenant's failure to submit a statement within the 30 day period shall be deemed an
11 admission that the tenant is not protected by Section 37.9(i). A landlord may challenge a
12 tenant's claim of protected status either by requesting a hearing with the Rent Board or, at the
13 landlord's option, through commencement of eviction proceedings, including service of a
14 notice of termination of tenancy. In the Rent Board hearing or the eviction action, the tenant
15 shall have the burden of proof to show protected status. No civil or criminal liability under
16 Section 37.9(e) or (f) shall be imposed upon a landlord for either requesting or challenging a
17 tenant's claim of protected status.

18 (5) This Section 37.9(i) is severable from all other sections and shall be of no force
19 or effect if any temporary moratorium on owner/relative evictions adopted by the Board of
20 Supervisors after June 1, 1998 and before October 31, 1998 has been invalidated by the
21 courts in a final decision.

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23 //
24 //
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1 Section 2. The San Francisco Administrative Code is hereby amended by amending
2 Section 37.9B, to read as follows:

3 Sec. 37.9B. TENANT RIGHTS IN EVICTIONS UNDER SECTION 37.9(a)(8).

4 (a) Any rental unit which a tenant vacates after receiving a notice to quit based on
5 Section 37.9(a)(8), and which is subsequently no longer occupied as a principal residence by
6 the landlord or the landlord's grandparent, parent, child, grandchild, brother, sister, or the
7 landlord's spouse, or the spouses of such relations must, if offered for rent during the three-
8 year period following service of the notice to quit under Section 37.9(a)(8), be rented in good
9 faith at a rent not greater than at which would have been the rent had the tenant who had
10 been required to vacate remained in continuous occupancy and the rental unit remained
11 subject to this Chapter. If it is asserted that a rent increase could have taken place during the
12 occupancy of the rental unit by the landlord if the rental unit had been subjected to this
13 Chapter, the landlord shall bear the burden of proving that the rent could have been legally
14 increased during the period. If it is asserted that the increase is based in whole or in part upon
15 any grounds other than that set forth in Section 37.3(a)(1), the landlord must petition the Rent
16 Board pursuant to the procedures of this Chapter. Displaced tenants shall be entitled to
17 participate in and present evidence at any hearing held on such a petition. Tenants displaced
18 pursuant to Section 37.9(a)(8) shall make all reasonable efforts to keep the Rent Board
19 apprised of their current address. The Rent Board shall provide notice of any proceedings
20 before the Rent Board to the displaced tenant at the last address provided by the tenant. No
21 increase shall be allowed on account of any expense incurred in connection with the
22 displacement of the tenant.

23 (b) Any landlord who, within three years of the date of service of the notice to quit,
24 offers for rent or lease any unit in which the possession was recovered pursuant to Section
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1 37.9(a)(8) shall first offer the unit for rent or lease to the tenants displaced in the same
2 manner as provided for in Sections 37.9A(c) and (d).

3 (c) In addition to complying with the requirements of Section 37.9(a)(8), Aan owner
4 who endeavors to recover possession under Section 37.9(a)(8) shall, ~~in addition to complying~~
5 ~~with the requirements of Section 37.9(c),~~ inform the tenant of the following information in
6 writing of the following and file any written documents informing the tenant of the following a
7 copy with the Rent Board within 10 days after service of the notice to vacate, together with a
8 copy of the notice to vacate and proof of service upon the tenant;

9 (1) The identity and percentage of ownership of all persons holding a full or partial
10 percentage ownership in the property;

11 (2) The dates the percentages of ownership were recorded;

12 (3) The name(s) of the landlord endeavoring to recover possession and, if
13 applicable, the name(s) and relationship of the relative(s) for whom possession is being
14 sought and a description of the current residence of the landlord or relative(s);

15 (4) A description of all residential properties owned, in whole or in part, by the
16 landlord and, if applicable, a description of all residential properties owned, in whole or in part,
17 by the landlord's grandparent, parent, child, grandchild, brother, or sister for whom possession
18 is being sought;

19 (5) The current rent for the unit and a statement that the tenant has the right to re-
20 rent the unit at the same rent, as adjusted by Section 37.9B(a) above;

21 (6) The contents of Section 37.9B, by providing a copy of same; and

22 (7) The right the tenant(s) may have to relocation costs and the amount of those
23 relocation costs.

24 (d) Each individual tenant of any rental unit in a building containing two or more
25 units who receives a notice to quit based upon Section 37.9(a)(8), and who has resided in the

1 unit for 12 or more months, in addition to all rights under any other provision of law, shall be
2 entitled to receive relocation expenses of \$1,000 from the owner, \$500 of which shall be paid
3 at the time of the service of the notice to vacate, and \$500 of which shall be paid when the
4 tenant vacates. An owner who pays relocation costs as required by this subsection in
5 conjunction with a notice to quit need not pay relocation costs with any further notices to quit
6 for the same unit that are served within 180 days of the notice that included the required
7 relocation payment. The relocation costs contained herein are separate from any security or
8 other refundable deposits as defined in California Code Section 1950.5. Further, payment or
9 acceptance of relocation costs shall not waive any other rights a tenant may have under law.

10 (e) Within 30 days after the effective date of a written notice to vacate that is filed with
11 the Board as required by under Section 37.9B(c) the Board shall record a notice of constraints with
12 the County Recorder identifying each unit on the property that is the subject of the Section 37.9B(c)
13 notice to vacate, stating the nature and dates of applicable restrictions under Sections 37.9(a)(8) and
14 37.9B. If a notice of constraints is recorded but the tenant does not vacate the unit, the
15 landlord may apply to the Board for a rescission of the recorded notice of constraints.
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18 Section 3. The San Francisco Administrative Code is hereby amended by amending
19 Section 37.10AB, to read as follows:

20 Sec. 37.10A. MISDEMEANORS, AND OTHER ENFORCEMENT PROVISIONS.

21 (a) It shall be unlawful for a landlord to increase rent or rents in violation of the
22 decision of an Administrative Law Judge or the decision of the Board on appeal pursuant to
23 the hearing and appeal procedures set forth in Section 37.8 of this Chapter. It shall further be
24 unlawful for a landlord to charge any rent which exceeds the limitations of this Chapter. Any
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1 person who increases rents in violation of such decisions or who charges excessive rents
2 shall be guilty of a misdemeanor.

3 (b) It shall be unlawful for an landlord to refuse to rent or lease or otherwise deny to
4 or withhold from any person any rental unit because the age of a prospective tenant would
5 result in the tenant acquiring rights under this Chapter. Any person who refuses to rent in
6 violation of this subsection shall, in addition to any other penalties provide by State or federal
7 law, be guilty of a misdemeanor.

8 (c) ~~Any person convicted of a misdemeanor hereunder shall be punishable by a fine of not~~
9 ~~more than \$2,000 or by imprisonment in the County Jail for a period of not more than six months, or by~~
10 ~~both. Each violation of the decision of an Administrative Law Judge or the decision of the Board on~~
11 ~~appeal and each refusal to rent or denial of a rental unit as set forth above shall constitute a separate~~
12 ~~offense. It shall be unlawful for a landlord or for any person who willfully assists a landlord to request~~
13 ~~that a tenant move from a rental unit or to threaten to recover possession of a rental unit, either~~
14 ~~verbally or in writing, unless: (1) the landlord in good faith intends to recover said unit under one of~~
15 ~~the grounds enumerated in Section 37.9(a) or (b); and (2) within five days of any such request or threat~~
16 ~~the landlord serves the tenant with a written notice stating the particular ground under Section 37.9(a)~~
17 ~~or (b) that is the basis for the landlord's intended recovery of possession of the unit.~~

18 (d) It shall be unlawful for a landlord or for any person who willfully assists a landlord to
19 recover possession of a rental unit unless, prior to recovery of possession of the unit: (1) the landlord
20 files a copy of the written notice required under Section 37.10A(c) with the Board together with any
21 preceding warning or threat to recover possession, unless the particular ground for recovery is
22 non-payment of rent; and (2) the landlord satisfies all requirements for recovery of the unit under
23 Section 37.9(a) or (b).

24 (e) In any criminal or civil proceeding based on a violation of Section 37.10A(c) or
25 37.10A(d), the landlord's failure to use a recovered unit for the Section 37.9(a) or (b) ground stated

1 verbally or in writing to the tenant from whom the unit was recovered shall give rise to a presumption
2 that the landlord did not have a good faith intention to recover the unit for the stated ground.

3 (f) If possession of a rental unit is recovered as the result of any written or verbal statement
4 to the tenant that the landlord intends to recover the unit under one of the grounds enumerated in
5 Section 37.9(a) or (b), the unit shall be subject to all restrictions set forth under this Chapter on units
6 recovered for such stated purpose regardless of any agreement made between the landlord or the
7 landlord's agent and the tenant who vacated the recovered unit. Any unit vacated by a tenant within
8 120 days after receiving any written or verbal statement from the landlord stating that the landlord
9 intends to recover the unit under Section 37.9(a) or (b), shall be rebuttably presumed to have been
10 recovered by the landlord pursuant to the grounds identified in that written or verbal statement.

11 (g) Any waiver of rights by a tenant under this Chapter shall be void as contrary to
12 public policy unless the tenant is represented by independent counsel and the waiver is
13 approved in a judicially supervised settlement agreement. Except as provided in this
14 subsection it shall be unlawful for a landlord, or for any person who willfully assists a landlord,
15 including the landlord's attorney or legal representative, to seek or obtain a tenant's waiver of
16 rights under this Chapter except as provided in this Section, or to seek or obtain a tenant's
17 agreement not to cooperate with any investigation or proceeding by any administrative or law
18 enforcement or other governmental agency under this Chapter, or to otherwise seek or obtain a
19 tenant's waiver of rights under this Chapter. Any waiver of rights by a tenant under this
20 Chapter shall be void as contrary to public policy unless the tenant is represented by
21 independent counsel and the waiver is approved in a Court-supervised settlement agreement,
22 or by a retired judge of the California Superior Court sitting as a mediator or arbitrator by
23 mutual agreement of the tenant represented by independent counsel and the landlord. Any
24 settlement agreement shall identify the judge, mediator, or arbitrator reviewing the settlement,
25 all counsel representing the parties, and any other information as required by the Board. The

1 landlord shall file a signed copy of the settlement agreement with the Board within ten days of
2 execution. Unless otherwise required by the Board, the copy of the agreement filed with the
3 Board shall redact the amount of payments to be made to tenants.

4 (h) It shall be unlawful for a landlord to knowingly fail to disclose enter into a contract
5 for the sale of any property consisting of two or more residential units without first disclosing in
6 writing to the buyer , prior to entering into a contract for the sale of any property consisting of
7 two or more residential units, the specific legal ground(s) for the termination of the tenancy of every
8 each residential unit to be delivered vacant at the close of escrow.

9 (i) Any person who violates Section 37.10A(a), (b), (c), (d), (g) or (h) is guilty of a
10 misdemeanor and shall be punished by a mandatory fine of one thousand dollars (\$1,000), and in
11 addition to such fine may be punished by imprisonment in the County Jail for a period of not more than
12 six months. Each violation shall constitute a separate offense.

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15 Section 4. FINDINGS. The Board of Supervisors finds:

16 (a.) The District Attorney's office reports that, while investigating illegal evictions, it
17 has become aware that a landlord sometimes threatens to file an Ellis Act eviction notice in
18 order to recover a rental unit from a tenant, without actually filing the notice. If the tenant
19 vacates the unit in anticipation of receiving the notice, and the Ellis Act notice is not actually
20 filed or recorded, the landlord can re-rent the unit at market rate without any of the
21 consequences of an Ellis Act eviction.

22 (b.) The District Attorney's office also reports that it has encountered cases where
23 tenants subjected to owner move-in evictions or Ellis Act evictions waived their rights without
24 any legal representation, signing settlement agreements stating that the landlord could re-rent
25 the property at market rate. Some tenants subjected to owner move-in evictions signed

1 agreements stating that the owner or his or her intended family member was not required to
2 occupy the property. In some cases, these settlement agreements also barred the evicted
3 tenant from cooperating with the Rent Board or the District Attorney's office in the event of an
4 administrative or criminal investigation or prosecution.

5 (c.) The District Attorney's office further reports that prosecution of illegal evictions
6 has been further hampered by post-eviction sale of properties, with no notice to the new
7 buyers of the constraints on future use.

8 (d.) In order to address these issues identified by the District Attorney's office, and in
9 order to more effectively insure enforcement of the City's Residential Rent Stabilization and
10 Arbitration Ordinance (Administrative Code Chapter 37), the Board of Supervisors enacts the
11 amendments set forth herein.

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14 Section 5. SEVERABILITY. If any part or provision of this Ordinance, or the
15 application thereof to any person or circumstance, is held invalid, the remainder of this Ordinance,
16 including the application of such part or provision to other persons or circumstances, shall not be
17 affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance
18 are severable.

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21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: 
24 MARIE CORLETT BLITS
25 Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 011575

Date Passed:

Ordinance amending the Rent Ordinance (Administrative Code Chapter 37, Residential Rent Stabilization and Arbitration Ordinance) by amending Sections 37.9, 37.9B and 37.10A to provide additional protections to tenants, and to conform to state law regarding misdemeanor violations, as follows: (1) Require the Rent Board to record owner move-in eviction notices with the County Recorder; (2) Require eviction notices to be in writing and filed with the Rent Board; (3) Subject vacated units to the future use restrictions stated in the Rent Ordinance, regardless of any agreement made between the landlord and the vacating tenant; (4) Require a tenant to be represented by independent counsel in a court-supervised settlement agreement, in order to waive any tenant rights under the Rent Ordinance; (5) Prohibit settlement agreement clauses that bar an evicted tenant from cooperation with a governmental investigation or proceeding; (6) Require the seller of a property to give written notice to the buyer disclosing the legal ground(s) for the termination of the tenancy for each residential unit to be delivered vacant at the close of escrow; and (7) Conform misdemeanor provisions to state law (\$1,000 fine plus possible imprisonment in County Jail for up to six months).

March 18, 2002 Board of Supervisors — SUBSTITUTED

April 8, 2002 Board of Supervisors — CONTINUED

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee

April 15, 2002 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 10 - Ammiano, Daly, Gonzalez, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee
Noes: 1 - Hall

April 15, 2002 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 9 - Ammiano, Daly, Gonzalez, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval
Noes: 2 - Hall, Yee

April 22, 2002 Board of Supervisors — FINALLY PASSED

Ayes: 8 - Ammiano, Daly, Gonzalez, Leno, Maxwell, McGoldrick, Peskin, Sandoval
Noes: 1 - Hall
Absent: 2 - Newsom, Yee

File No. 011575

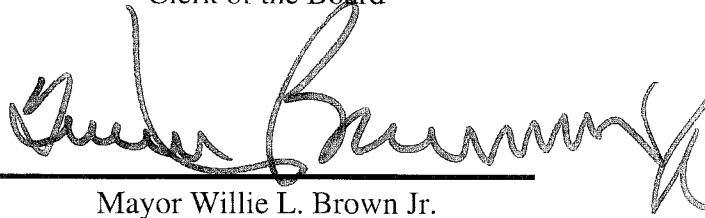
I hereby certify that the foregoing Ordinance was FINALLY PASSED on April 22, 2002 by the Board of Supervisors of the City and County of San Francisco.



Gloria L. Young
Clerk of the Board

MAY 03 2002

Date Approved



Mayor Willie L. Brown Jr.